



TERMS AND CONDITIONS

CONDITIONS OF CARRIAGE

Bill of Lading terms and conditions

1. DEFINITIONS, "Carrier" means the party on whose behalf this Bill of Lading has been signed. "Goods" means the cargo accepted from the Shipper and includes any Container not supplied by or on behalf of the Carrier.

"Container" includes any container, trailer, transportable tank flat or pallet.

"Merchant" includes the Shipper Holder, Consignee receiver of the Goods, any person owning or entitled to the possession of the Goods or this Bill of Lading and anyone acting on behalf of any such persons.

"Holder" means any person for the time being in possession of this Bill of Lading to whom the property in the Goods has passed on or by reason of the consignment of the Goods or the endorsement of the Bill of Lading or otherwise.

References to the internal law of a State shall be deemed to exclude all principles of private international law applied by such State.

2. CARRIER'S TARIFF. The Terms of the Carrier's applicable Tariff are incorporated herein.

Copies of the relevant provisions of the applicable Tariff are obtainable from the Carrier upon request. In the case of inconsistency between this Bill of Lading & the applicable Tariff this Bill of Lading shall prevail.

3. WARRANTY. The Merchant warrants that in agreeing to the terms hereof he is, or has the authority, the person owning or entitled to the possession of the Goods and this Bill of Lading.

4. SUB-CONTRACTING. (i) The Carrier shall be entitled to sub-contract on any terms the whole or any part of the carriage, loading, unloading storing, warehousing, handling and any and all duties whatsoever undertaken by the Carrier in relation to the Goods.

(ii) The Merchant undertakes that no claims or allegations shall be made against any servant, agent or sub-contractor, including, without limiting the generality of the foregoing, terminal and depot operators of the Carrier which impose or attempts to impose upon any of them or any vessel owned by any of them any liability whatsoever in connection with the Goods. and, if any such claim of allegation should nevertheless be made to indemnify the Carrier against all consequences thereof. Without prejudice to the foregoing every such servant, agent and subcontractor, including, without limiting the generality of the foregoing terminal and depot operators, shall have the benefit of all provisions herein benefitting the Carrier as if such

provisions were expressly for their benefit and in entering into this contract the Carrier, to the extent of those provisions, does so not only on its own behalf, but also as agent and trustee for such servants, agents and sub-contractors, including without limiting the generality of the foregoing terminal and depot operators.

(iii) The expressions 'sub-contractor' in this clause shall include direct and indirect sub-contractors and their respective servants and agents.

5. CARRIER'S RESPONSIBILITY (i) The Carrier shall be liable for loss of or damage to the goods occurring between the time when he receives the Goods for transportation and the time of delivery.

(ii) The Carrier shall, however, be relieved of liability for any loss or damage if such loss or damage arose or resulted from:

(a) The wrongful act or neglect of the Merchant.

(b) compliance with the instructions of the person entitled to give them.

(c) the lack of or insufficiency of or defective condition of packing in the case of Goods which by their nature, are liable to wastage or to be damaged when not packed or when not properly packed.

(d) handling, loading, stowage or unloading of the Goods by or on behalf of the Merchant.

(e) inherent vice of the Goods.

(f) insufficiency or inadequacy of marks or numbers on the Goods coverings or containers.

(g) strikes, lock-outs or stoppage or restraints of labour from whatever cause whether partial or general.

(h) any cause or event which the Carrier could not avoid and the consequence whereof he could not prevent by the exercise of reasonable diligence.

(iii) where under sub-clause (ii) the Carrier is not under any liability in respect of some of the factors causing the loss or damage he shall only be liable to the extent that those factors for which he is liable under this Clause have contributed to the loss or damage.

(iv) The burden of proving that the loss or damage was due to one or more of the causes or events, specified in (a), (b) and (h) of sub-clause (ii) shall rest upon the Carrier. When the Carrier establishes that in the circumstances of the case, the loss or damage could be attributed to one or more of the causes, or events, specified in (c) to (g) of sub-clause (ii), it shall be presumed that it was so caused. The Merchant shall, however be entitled to prove that the loss or damage was not, in fact, caused either wholly or partly by one or more of these causes or events.

6. THE AMOUNT OF COMPENSATION: (i) When the carrier is liable for compensation in respect of loss of or damage to the goods, such compensation shall be calculated by reference to the invoice the value of the Goods plus freight charges and insurance if paid.

(ii) If there is no invoice value of the Goods, such compensation shall be calculated by reference to the value of such Goods at the place and time they are delivered to the Merchant in accordance with the contract or should have been delivered. The value of the Goods shall be fixed according to the commodity exchange price or, if there be no such price according to the current market price or, if there be no commodity exchange price or current market price by reference to the normal value of the Goods of the same kind and quality.

(iii) Compensation shall not however exceed US\$2 per kilo or gross weight of the Goods lost or damaged.

(iv) Higher compensation may be claimed only when with the consent of the Carrier the value of the Goods declared by the Shipper which exceeds the limits laid down in this clause has been stated in this Bill of Lading. In that case the amount of the declared value shall be substituted for that limit. Any partial loss or damage shall be adjusted pro-rata on the basis of such declared value.

7. SPECIAL PROVISIONS. (1) Notwithstanding anything provided for in Clauses 5 and 6 of the Bill of Lading and subject to clauses 18 and 19 if it can be proved where the loss or damage occurred, the Carrier and the Merchant shall as to the liability of the Carrier, be entitled to require such liability to be determined.

(a) by the provisions contained in any international convention or national law which provisions-

(i) cannot be departed from by private contract to the detriment of the Merchant, and

(ii) would have applied if the Merchant had made a separate and direct contract with the Carrier in respect of the particular stage of transport where the loss or damage occurred and received as evidence thereof any particular document which must be issued if such international convention or national law shall apply; provided that an international convention or national law may be invoked as aforesaid only if it would have been applicable if the contract referred to in (ii) above were governed.

(1) where the loss or damage occurred between the time that the Goods were received by the Carrier for transportation and the time that the Goods were loaded at the port of loading, by the internal law of the State of the place of receipt; or

(2) where the loss or damage occurred during carriage by sea, by the internal law of the final court of discharge; or

(3) where the loss or damage occurred between the time that the Goods were discharged at the final port of discharge and the time that the Goods were delivered to the Merchant, by the internal law of the State of the place of delivery; or

(b) subject to (a)-

(i) by the Hague Rules contained in the international Convention at Brussels for the Unification of Certain Rules Relating to Bills of Lading dated 25th August, 1924 as amended by the Brussels Protocols of 1968, if the loss or damage is proved to have occurred at sea or on inland waterways; for the purposes of this sub-clause the limitation of liability under the Hague Rules shall be deemed to be £100 sterling, lawful money of the United Kingdom per package or unit and references in the Hague Rules to carriage by sea shall be deemed to include references to carriage by inland waterways and the Hague Rules shall be construed accordingly; or

(ii) by standard Japanese Road Transportation Clauses if the loss or damage is proved to have occurred during carriage by road in Japan; or

(iii) by Japanese Railway Transportation Business law and Ministerial Ordinance for Railway Transportation if the loss or damage is proved to have occurred during, carriage by rail in Japan.

(2) If the whole of the carriage undertaken by the Carrier is limited to carriage from a Container Yard (CY) or Container Freight Station (CFS) in or immediately adjacent to the sea terminal and

the port of loading to a CY or CFS in or immediately adjacent to the sea terminal at the port of discharge the liability of the Carrier shall be determined by the national law which shall be applicable to the carriage by sea under paragraph

(a) above or failing which by the Hague Rules, referred to in (1) (b) (i) above, irrespective of whether the loss or damage is proved to have occurred during the period of carriage at sea or prior or subsequent thereto.

8. GENERAL (i) The Carrier does not undertake that the Goods shall arrive at the Port of Discharge or Place of Delivery at any particular time or to meet any particular market or use, and save as provided in Clause 7 the Carrier shall in no circumstances be liable for any direct, indirect or consequential loss or damage caused by delay. The liability of the Carrier or Indirect or consequential loss or damages caused by delay shall in no case exceed the freight for the transport covered by this Bill of Lading.

(ii) Save as otherwise provided herein the Carrier shall in no circumstances be liable for direct or indirect or consequential loss or damage arising from any other cause

(iii) The terms of this Bill of Lading shall govern the responsibility of the Carrier in connection with or arising out of the supply of Container to the Merchant whether before or after the Goods are received by the Carrier for transportation or delivered to the Merchant.

9. NOTICE OF LOSS TIME BAR, (i) Unless notice of loss or damage to the Goods and the general nature of it be given in writing to the Carrier at the place of delivery before or at the time of the removal of the goods into the custody of the person entitled to delivery thereof under this Bill of Lading or if the loss or damage be not apparent within 3 consecutive days thereafter such removal shall be "prima facie" evidence of the delivery by the Carrier of the Goods as described in this Bill of Lading.

(ii) subject to paragraph (iii) below the Carrier shall be discharged of all liability under this Bill of Lading unless suit is brought and written notice thereof given to the Carrier within nine months after delivery of the Goods. In the case of total loss of the Goods the period shall begin to run two months after the Goods have been received for transportation.

(iii) Notwithstanding paragraph (ii) above, if the whole of the Carriage undertaken by the Carrier is limited to the carriage from a CY or CFS cargo in or immediately adjacent to the sea terminal at the port of loading to a CY or CFS in or immediately adjacent to the sea terminal at the port of discharge the Carrier shall be discharged from all liability whatsoever in respect of the Goods unless suit is brought within one year of their delivery of the date when they should have been delivered.

10. DEFENCES AND LIMITS FOR THE CARRIER (i) The defence and limits of liability provided for in those Bills of Lading shall apply in any action against the carrier for the loss or damage to the goods whether the action be founded in contract or in tort. (ii) The Carrier shall not be entitled to the benefit of the limitation of liability provided for in clause 6 sub-clause (iii) if it is proved that the loss or damage resulted from an act or omission of the carrier done with intent to cause damage or recklessly and with knowledge that the damage would probably result.

11. SHIPPER-PACKED CONTAINERS If a Container has not been filled, packed, stuffed or loaded by the Carrier, the Carrier shall not be liable for loss or damage to the content and the Merchant

shall indemnify the Carrier against any loss, damage, liability, or expense incurred by the Carrier, if such loss, damage, liability or expense has been caused by:

- (a) The manner in which the Container has been filled, packed, stuffed or loaded or
- (b) The unsuitability of the content of carriage in Containers; or
- (c) The unsuitability or defective condition of the Container arising without any want of due diligence on the part of the Carrier to make the Container reasonably fit for the purpose for which it is require; or
- (d) the unsuitability of defective condition of the Container which would have been apparent upon

reasonable inspection by the Merchant at or prior to the time when the Container was filled, packed, stuffed of loaded.

12. INSPECTION OF GOODS. The Carrier shall be entitled but under no obligation to open any Container at any time to inspect the contents. If it thereupon appears that the contents or any part there of cannot safely or properly be carried or carried further, either at all or without incurring any additional expense or taking any measure in relation to the Containers or its contents or any part thereof, the Carrier may abandon the transportation thereof and/or take any measures and/or incur any reasonable additional expense to carry or to continue the Carriage or to store the same ashore or afloat under cover or in the open at any place, which storage shall deemed to constitute due delivery under this Bill of Lading. The Merchant shall indemnify the Carrier against any reasonable additional expense so incurred.

13. DESCRIPTION OF GOODS. (i) This Bill of Lading shall be prima face evidence of the receipt by the Carrier in apparent good order and condition except as otherwise noted of the total number of Containers or other packages or units enumerated overleaf. Proof to the contrary shall not be admissible when this Bill of Lading has been transferred to a third party acting in good faith.

(ii) No representation is made by the Carrier as to the weight, contents, Measure, quality, description, condition, marks, numbers or value of the Goods and the Carrier shall be under no responsibility whatsoever in respect of such description or particulars.

14. SHIPPER'S RESPONSIBILITY, (i) The Shipper warrants to the Carrier that the particulars relating to the Goods as set out overleaf have been checked by the Shippers on receipt of this Bill of Lading and that such particulars and any other particulars furnished by or on behalf of the Shipper are correct.

(ii) The Shipper shall indemnify the Carrier against all loss, damage and expenses arising or resulting from inaccuracies in or inadequacy of such particulars. The right of the Carrier to such indemnity shall in no way limit his responsibility and liability under this Bill of Lading to any person other than the Shipper.

15. FREIGHT AND CHARGES. (i) Freight and charges shall be deemed fully earned on receipt of the Goods by the Carrier on shall be paid and non-refundable in any event.

(ii) The Merchant's attention is drawn to the stipulations concerning currency in which the Freight and charges are to be paid, rate of exchange, devaluation and other contingencies relative to freight and charges in the applicable Tariff,

(iii) The freight has been calculated on the basis of particulars furnished by or on behalf of the shipper. The Carrier may at any time open any Container or other package or unit in order to reweigh, remeasure or revalue the contents, and if the particulars furnished by or on behalf of the Shipper are incorrect, it is agreed that the sum equal to either five times the difference between the correct freight and the freight charged or to double the correct freight less the freight charged, whichever sum is smaller, shall be payable as liquidated damages to the Carrier.

(iv) Full freight hereunder shall be due and payable at the place where this Bill of Lading is issued by the shipper in cash without deduction on receipt of the Goods or part thereof by the Carrier for shipment even it stated in this Bill of Lading to be payable elsewhere and shall be deemed to have been fully earned upon such receipt of such Goods. All charges due hereunder together with freight (if not paid at the port of loading as aforesaid) shall be due from and payable on demand by the Shipper, Consignee, Owner of the Goods or Holder of this Bill of Lading (who shall be jointly and severally liable to the carriers thereof) at such port or place as a carrier may require, vessel or cargo lost or not lost from any cause whatsoever.

16. LIEN The Carrier shall have a lien on the Goods and any documents relating there to for all sums payable to the Carrier under this contract and for general average contributions to whomsoever due and for the cost of recovering the same and also for all previously unsatisfied debits whatsoever due to carrier by the Merchant, and for that purpose shall have the right to sell the Goods by public auction or private treaty without notice to the Merchant.

17. OPTIONAL STOWAGE. (i) The goods may be stowed by Carrier in Containers or similar articles of transport use to consolidate goods.

(ii) Goods stowed in Containers other than flats or pallets whether by the Carrier or the Merchant, may be carried on or under deck without notice to the Merchant. Such Goods (other than livestock) whether carried on deck or under deck shall participate in general average and shall be deemed to be within the definition of goods for the purposes of the Hague Rules.

18. DECK CARGO. Goods (not being Goods stowed in Containers other than flats or pallets) which are stated herein to be carried on deck are carried without responsibility on the part of the Carrier for loss or damage of whatsoever nature arising during carriage by sea whether caused by unseaworthiness or negligence or any other cause whatsoever.

19. LIVESTOCK. Livestock are carried at the sole risk of the Merchant. The Carrier shall be under no liability whatsoever for any injury, illness, death, delay or destruction however arising even though caused or contributed by the act, neglect or default of the Carriage or by the unseaworthiness or unfitness of any vessel, craft, conveyance, container or other place existing at any time in the event of the Master, in his sole discretion, considering that any live stock is likely to be injurious to the health of any other livestock or of any person on board or to cause the vessel to be delayed or impeded in the prosecution of the voyage, such livestock may be destroyed and thrown overboard without any liability attaching to the Carrier. The Merchant shall indemnify the Carrier against the cost of veterinary services on the voyage and of providing forage for any period during which the carriage is delayed for any reason whatsoever and of complying with the regulations of any authority of any country whatsoever with regards to such livestock.

20. METHODS AND ROUTES OF TRANSPORTATION. (i) The Carrier may at any time and without notice to the Merchant-

(a) use any means or transport or storage whatsoever.

(b) transfer the Goods from one conveyance to another, including transshipping or carrying the same on another vessel than the vessel named overleaf or on any other means of transport whatsoever.

(c) proceed by any route in his discretion (whether or not the nearest or most direct or customary or advertised route) and proceed to or stay at any place or port whatsoever once or more often and in any order.

(d) load and unload the Goods at any place or port (whether or not any such port is named overleaf as the Port of Loading or of Discharge) and store the Goods at any such place or port.

(e) comply with any orders or recommendations given by any government or authority or any person or body acting or purporting to act as or on behalf of such government or authority or having under the terms of the insurance on the conveyance employed by the Carrier the right to give orders or directions.

(ii) The liberty set out in sub-clause (i) may be invoked by the Carrier for any purpose whatsoever, including undergoing repairs, towing or being towed, adjusting instruments, dry-docking, and assisting vessels in all situations and anything done in accordance with sub-clause (i) or any delay arising therefrom shall be deemed to be within the contractual Carriage and shall not be deviation.

21. MATERS AFFECTING PERFORMANCE. If at any time the performance of the contract evidenced by this Bill Of Lading is likely to be affected by any hindrance, risk, delay, difficulty, or disadvantage or whatsoever kind which cannot be avoided by the exercise of reasonable endeavors the Carrier (whether or not the transport is commenced) may without notice to the Merchant treat the performance of this contract as terminated and place the goods or any part of them at the Merchant's disposal at any place or port which the Carrier may deem safe and convenient whereupon the responsibility of the Carrier in respect to such Goods shall cease. The Carrier shall nevertheless be entitled to full freight and charges on Goods received for transportation and the Merchant shall pay any additional costs of carriage to and delivery and storage at such place or port.

22. DANGEROUS GOODS. (i) The Merchant undertake not to tender for transportation any Goods which are of a dangerous, inflammable, radio-active or damaging nature without previously giving written notice of their nature to the Carrier and making the Goods and the Container or other covering on the outside as required by any laws or regulations which may be applicable during the carriage.

(ii) If the requirements of sub-clause (i) are not complied with the Merchant shall indemnify the carrier against all loss, damage or expense arising out of the Goods being tendered for transportation or handled or carried by the Carrier.

(iii) Goods which are or at any time become dangerous, inflammable, radio-active or damaging may at any time or place be unloaded, destroyed or tendered harmless without compensation.

and if the Merchant has not given nature to the Carrier under (i) above, the Carrier shall be under no liability to make any general average contribution in respect of such Goods.

23. REFRIGERATED CARGO. (1) The Merchant undertakes not to tender for transportation any goods which requires refrigeration without previously giving written notice of their nature and particular temperature range to be maintained and in the case of the refrigerated container packed by or on behalf of the Merchant further undertakes that the Goods have been properly stowed in the Container and that its thermostatic controls have been adequately set by him before receipt of the Goods by the Carrier. If the above requirements are not complied with, the carrier shall not be liable for any loss of or damage to the goods however arising.

(ii) The Carrier shall not be liable for any loss of or damage to the Goods arising from failure to detect derangement breakdown stoppage of the refrigerating machinery plant insulation and/or any apparatus of the Container. vessel, conveyance and any other facilities provided that the carrier shall before or at the beginning of the transport exercise due diligence to maintain refrigerated Container in an efficient state.

24. REGULATION RELATING TO GOODS The Merchant shall comply with all regulations or requirement of customs, port and other authorities and shall bear and pay all duties, taxes, fines, Imposts, expenses, or losses incurred suffered by reason thereof or reason of any illegal, incorrect or insufficient marking, Numbering or addressing of the Goods and indemnify the Carrier in respect thereof.

25. NOTIFICATION AND DELIVERY (i) Any mention in this Bill of Lading of parties to be notified of the arrival of the Goods is solely for information of the Carrier and failure to give such notification shall not involve the carrier in any liability nor relieve the Merchant of any obligation hereunder.

(ii) If the Merchant shall take delivery of the Goods within the time provided for in the Carrier's applicable Tarrif.

(iii) The Merchant fails to take delivery of the Goods or part of them in accordance with this Bill of Lading the Carrier May without notice unlash the Goods or that part thereof and/or store the Goods or that part thereof ashore afloat, in the open or under cover such storage shall constitute due delivery hereunder and thereupon all liability whatsoever of the Carrier in respect of the Goods or that part thereof shall cease.

(iv) The Merchant's attention is drawn to the stipulations concerning free storage time and demurrage contained in the Carrier's applicable Tariff, which is incorporated in this Bill of Lading.

26. BOTH-TO-BLAME COLLISION If the carrying ship comes into collision with another ship as a result of negligence of the other ship and any act neglect or default in the navigation or the management of the carrying ship the Merchant undertakes to pay to the Carrier or where the Carrier is not the owner and in possession of the carrying ship to pay to the Carrier as trustee for the owner and / or the demise charter of the carrying ship sufficient to indemnify the Carrier and/or demise charter of the carrying against all loss or liability to the other or non-carrying ship or her owners insofar as such losses or liability represents loss of or damage to or any claim whatsoever of the Merchant paid or payable by the other or non-carrying ship or her owners as part of their claim against the carrying ship or her owner or demise charterer or the Carrier The foregoing provisions shall also apply where the owners operators or those in charge of any ship

or ships or objects other than or in addition to the colliding ships or objects are at fault in respect to a collision, contract, stranding or other accident.

27. GENERAL AVERAGE (i) General average shall be adjusted at any port or place at the option of the Carrier and subject to Clause 17 (ii) in accordance with the York Antwerp Rules 1974, provided that where an adjustment is made in accordance with the law and practice of United States of America or of any other country having the same or similar law or practice the following clause shall apply. New Jason Clause.

(a) In the event of accident danger, damage or disaster before or after the commencement of the voyage, resulting from any cause whatsoever, whether due to negligence or not for which of for the consequence for which the Carrier is not responsible by status contract or otherwise the Goods and the Merchant shall contribute with the Carrier in general average to the payment of any sacrifices, losses or expenses of a general average nature that may be made or incurred and shall pay salvage and special charges incurred in respect of the Goods.

(b) If a salving vessel is owned or operated by the Carrier salvage shall be paid for as fully as if the said salving vessel belonged to strangers.

(ii) If the Carrier delivers the Goods without obtaining security for general average contributions, the Merchant by taking delivery of the Goods, undertakes personal responsibility to pay such contributions and to provide such cash deposit or other security for the estimated amount of such contributions as the Carrier shall reasonably require.

(iii) The Carrier shall be under no obligation to exercise any lien for general average contribution due to the Merchant

28. VARIATION OF THE CONTRACT ETC. No servant or agent of the Carrier shall have power to waive or vary any term of this Bill of Lading unless such waiver or variation is in writing and is specifically authorized or ratified in writing by the Carrier.

29. VESSELS ON CHARTER. in case of goods being carried by a vessel not belonging to the Carrier but chartered by him then the Carrier shall be entitled to any and all rights demurrers, prescriptions, exemptions from and limitations of liability available to the Owners of the vessel as of the Bill of lading as been issued by the Owner of the Vessel on his behalf.

30. LAW AND JURISDICTIONS. The contract evidenced here by or contained herein shall be governed by English Law Any claim or other dispute thereunder shall be solely determined by the English Courts unless the Carrier otherwise agrees in writing.

31. WAR RISK CLAUSE. The Ship shall have liberty to comply with any orders or directions as to departure, arrival, routes, ports of call stoppages, destination, delivery or otherwise howsoever given by the Government of the nation under whose flag the vessel sails or any department thereof or by any other Government or department thereof any person acting or purporting to act with the authority of such Government or any department thereof or by any committee or person having under the terms of the War Risks insurance on the ship the right to give such orders or directions and if by reason of any in compliance with any such orders or directions anything is done or is not done the same shall not be deemed a deviation and delivery In accordance with such orders or directions shall be a fulfillment of the contract voyage and the freight shall be payable accordingly.

32. DEMISE CLAUSE If the ship is not owned or chartered by demise to the Company or line by whom this Bill of Lading is issued (as may be the case notwithstanding anything that appears to the contrary) this Bill of Loading shall take effect only as a contract with the owner or demise charterer as the case may be as Principal made through the agency of the said Company or Line who act as agents only and shall be under no personal liability whatsoever in respect thereof.